

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ALLSTATE INSURANCE CO., et al.,

Plaintiffs,

v.

YUNG K. YU, et al.,

Case Nos. C-1-00-880/
C-1-00-935
(Consolidated)

Defendants.

HUGH L. MARTIN, et al.,

Plaintiffs,

v.

YUNG K. YU, et al.,

Defendants.

ORDER

This matter is before the Court upon defendant Wausau Business Insurance Company's motion to reinstate case (doc. 51) and renewed motion for summary judgment (doc. 52), plaintiffs' motion to continue stay (doc. 53), and defendant's motion to terminate stay (doc. 54).

This consolidated ***Scott-Pontzer*** case was administratively terminated on January 14, 2003, when the Court issued an Order staying the matter pending the Ohio Supreme Court's decision in ***Allen v. Johnson***, Case Nos. 2002-1126/2002-1433 (doc. 50). Defendant now moves the Court to reopen the case and to enter judgment in its favor as a matter of law in accordance with the Ohio Supreme Court's decisions in ***Westfield Insurance Company v. Galatis***, 100 Ohio

St.3d 216, 797 N.E.2d 1256 (2003) and in *Allen*, which relies on *Galatis*. In *Galatis*, the Ohio Supreme Court limited *Scott-Pontzer v. Liberty Mutual Fire Ins. Co.*, 85 Ohio St.3d 660, 710 N.E.2d 1116 (Ohio 1999) and overruled *Ezawa v. Yasuda Fire & Marine Ins. Co. of America*, 86 Ohio St.3d 557, 715 N.E.2d 1142 (1999). The Court held that (1) absent specific language to the contrary, an insurance policy which names a corporation as an insured for uninsured or underinsured motorists coverage covers a loss sustained by an employee of the corporation only if the loss occurs within the course and scope of employment, and (2) where an insurance policy designates a corporation as the named insured, the designation of “family members” of the named insured as other insureds does not extend the insurance coverage to a family member of an employee of the corporation, unless that employee is also a named insured.

Plaintiffs Hugh and Mary Martin move the Court to continue the stay in this case. Plaintiffs argue that this Court should continue the stay pending the Ohio Supreme Court’s decision on three motions for reconsideration filed in *Galatis*. Defendant moves the Court to terminate the stay on the ground that the motions for reconsideration have been denied. See *Westfield v. Galatis*, 100 Ohio St.3d 1548, 800 N.E.2d 752 (Table)(2003).

In view of the issuance of the *Galatis* and *Allen* decisions, it is appropriate to reopen this case and consider defendant’s motion for summary judgment. Accordingly, defendant’s motions to terminate the stay (doc. 54) and reinstate the case (doc. 51) are **GRANTED**. Plaintiffs’ motion to continue the stay (doc. 53) is **DENIED**. The Court will reserve ruling on defendant’s renewed motion for summary judgment (doc. 52) until plaintiffs have had an opportunity to respond.

Plaintiffs shall have **twenty days** from the date of this Order to file a response to the motion for summary judgment. Defendant shall file its reply within the time allotted under the governing rules.

IT IS SO ORDERED.

S/ Herman J. Weber
HERMAN J. WEBER, SENIOR JUDGE
UNITED STATES DISTRICT COURT

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